



**Utilities
Administration**

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December 12, 2011

Mr. Edward Mussler
North Carolina Department of Environment and Natural Resources
Division of Waste Management
1646 Mail Service Center
Raleigh, NC 27699

Re: Investigative Work Plan for MW-2R
Old Salisbury Road Construction and Demolition Landfill, Permit No. 34-12

Dear Mr. Mussler:

I am submitting this letter as formal documentation of our position regarding the referenced Work Plan.

In May 2011 a groundwater sample taken from well MW-2R during routine semi-annual monitoring showed two constituents that exceeded 2L Groundwater Drinking Water standards. These constituents were Benzene at 1.3 part per billion (ppb) and Tetrachloroethene at 1.4 ppb. The 2L Standards for both constituents are 1 ppb. This was the first detection of these constituents since monitoring began in January 1996. MW-2R was resampled for confirmation, and the subsequent testing in June confirmed the exceedances with levels of 1.6 ppb for both Benzene and Tetrachloroethene. The groundwater reports were submitted to DENR on July 11, 2011, and an Investigative Work Plan was submitted on August 10, 2011. This plan was prepared in accordance with 15A NCAC 2L as required for C&D landfills closed prior to June 30, 2008.

In a meeting held in your offices on October 7, 2011, we were instructed verbally that the Work Plan needed to be revised to be consistent with the newer .0545 rules, rather than the 2L rules. We requested clarification on this directive, specifically asking that your office refer us to the relevant rule or statute that justified your rejection of our plan as submitted. We understood you to say that you would provide this clarification in writing at a later date. In a subsequent letter written by Ms. Jackie Drummond, we were directed in writing to resubmit the Investigative Work Plan for MW-2R in accordance with 15A NCAC 13B .0545. While this letter specifically instructed us to revise the plan, it did not contain the requested explanation or rule reference that supports your rejection of our plan as originally written.



> request a service > report a problem
> make a suggestion

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City/County Utility Commission: David Neil, Chairman; James E. Lowe, Vice Chairman; Toyoko "Toy" Beary; Harold R. Holmes; Charles D. Jewell, II; Janeen Lalik; Paul S. McGill; Al H. Seymour; Stephen M. Shelton; J. Hill Stockton; Randall S. Tuttle

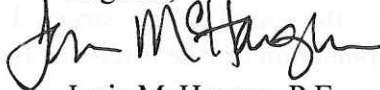
While we are committed to an effective investigation of this groundwater impact, we believe this can be accomplished under the 2L rules and we do not agree that the .0545 rules must apply to this portion of our facility which was closed prior to July 2008. Our reasoning for this position is based on the following points:

- The April 17, 2003 Permit to Operate (PTO) for Phases I, II, and III referenced 15A NCAC 2L Standards for Monitoring/Reporting. *There have been no Rule changes, closure conditions or additional correspondence informing us that the monitoring requirements would change for landfills closed by June 30, 2008.*
- Phases I, II, and III (which stopped accepting waste by June 30, 2008) were allowed to close according to 15A NCAC .0510. NCDENR acknowledged closure of Phase I, II, and III in the November 20, 2009 PTC/PTO (page 7 of 11). *This confirms that NCDENR does apply different regulations to portions of a contiguous landfill.*
- Based on groundwater mapping of OSR since the mid 1990s, monitoring well MW-2R is clearly downgradient of the closed portions of Phases I, II, and III. See the attached potentiometric map from the latest groundwater report. *It is logical to apply the same regulations to investigating this well as were applied to operate and close the area it serves to monitor.* NCDENR set a precedent at Hanes Mill Road landfill in Winston-Salem by allowing two contiguous landfills (i.e. the "Piggyback" area and the unlined area) to identify specific monitoring wells within the same monitoring system for each landfill, based on an evaluation of the groundwater flow path onsite.

Based on the above, we believe it is appropriate to allow us to conduct the investigation of MW-2R in accordance with the plan submitted in August. However, because of our strong commitment to environmental compliance, we have submitted a revised investigation plan to Ms. Drummond in accordance with her recent letter. Prior to actually implementing that plan as written, we again request that your office provide us with the requested clarification or rule reference that supports your rejection of our original plan.

Again, we are fully committed to conduct an effective and thorough investigation of this issue. Please contact me at 336-747-7310 if you wish to discuss this issue.

Regards,



Janis McHargue, P.E.
Solid Waste Administrator

Cc: David Saunders, Director of Utilities
Ed Gibson, Solid Waste Engineer
Jackie Drummond, DENR Hydrogeologist
Mark Poindexter, DENR Field Operations Supervisor
Jason Watkins, DENR Western District Supervisor
Mike Plummer, HDR Engineering